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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/540,109	06/20/2005	Arne Carlsson	P70670US0	1454
136 7590 04/28/2009 JACOBSON HOLMAN PLLC 400 SEVENTH STREET N.W. SUITE 600 WASHINGTON, DC 20004				
EXAMINER				
YEAGLEY, DANIEL S				
ART UNIT		PAPER NUMBER		
3611				
MAIL DATE		DELIVERY MODE		
04/28/2009		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/540,109

Applicant(s)

CARLSSON, ARNE

Examiner

Daniel Yeagley

Art Unit

3611

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 December 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 June 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-8508)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1 – 6, 8 – 11 and 13 – 18 are rejected under 35 U.S.C. 102(b) as being anticipated by Carlsson WO01/87671 (IDS).

Carlsson discloses an impact attenuating device (figure 2), wherein the device comprises a front part 9 connected to a frame side member of a vehicle with a wheel that includes two wheels with a pivot function 7, such that during a collision against the device forces are transferred to a vehicle 5, wherein the device comprises a rear part 24 having two transport wheels 4 capable of being in a raised position in an operation position (spring system locked out, page 6) and a lowered position in a transport position (where spring system operates to allow the transport wheels to assume a lowered position in a transport position, and wherein the device further includes an operation wheel 43 that has a pivot function, where the operation wheel is in a lowered position (figure 23) and a raised position (figure 1), and an extension device 2 that positions an attenuating part 1 in a transport position (figure 1 and 2), such that the attenuating part is extended away from the front part by configuration of the extension device in a first position and further shows a second position (figure 7) where the extension device 2 positions the attenuating part in an operation position against the front part (figure 3), such that the extension device is arranged between the front part and attenuating part; as broadly claimed, and

in the transport position the attenuating part is articulately arranged to the vehicle, wherein the extension device comprises a hydraulic telescopic device and a boom 31 arranged to a link arm 8, with a cylinder 22 acting upon the link arm moves the attenuating part to a transport or operation position, wherein the impact attenuating device shows a docking device that is arranged in the front part and the attenuating part to secure the rigidity of the attenuating device (figure 6-9), and further shows the telescopic device being connected to a front part via a vertical joint (pin) and to the attenuating part via a horizontal joint (bolt); as best shown in figure 9a.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Carlsson WO01/87671 (IDS).

Carlsson shows an impact attenuating device having an operable hydraulic power cylinder 22 (page 6), but failed to disclose if the hydraulic system of the internal hydraulic cylinder associated with the impact attenuating device is a hydraulic fluid system separate from the vehicle hydraulic fluid system.

It would have been obvious to one having ordinary skill in the art at the time the invention was made have utilized a separate hydraulic fluid system for the added attached attenuating device with its own separate system for operating the associated impact attenuating

device separate from that of a vehicle, simply to eliminate a connection process between the vehicle and the attached device for quicker and easier connecting and disconnecting of the device from the vehicle without the need to couple and uncouple a hydraulic system from a vehicle to operate a separate system on an attachment, simply dependent upon user preference.

5. Claim 7 is rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Carlsson '671.

Carlsson; as earlier understood and rejected under 103(a), was rejected as showing an impact attenuating device having a boom 31 and/or boom shown in figure 16; in the traditional meaning of the term "boom", which are arranged to a link arm as earlier understood. However, upon further review of the claim and the Carlsson reference as now better understood from applicants' claim and figures; as argued. Figure 5 of the Carlsson reference does shows the claimed extension device that includes a boom means; like that of applicants as now understood, wherein the boom means of the Carlsson reference is shown being arranged to a link arm and includes a cylinder 12 that acts on a link arm which moves the attenuating part to a transport and an operating position similar to that of applicants' boom. Further the boom means of Carlsson is connected to a front part 9 through a vertical-and horizontal joint; as claimed (at least elements 13, 14), wherein the joint is capable of providing movement of the attenuating device to move as a trailer (figure 2), and the joint connecting the boom to the front part of the Carlsson reference is configured to provide rotation of the device in a horizontal; as well as, obvious limited vertical rotational movement of the device and the boom via the joint.

Carlsson discloses the claimed invention of a vertical/horizontal joint connecting the front part to a boom as now understood, except the joint being a pintle type joint with limited vertical movement rather than a universal type joint; as understood from applicant disclosure. It would have been obvious to one having ordinary skill in the art at the time the invention was made have utilized a U-joint type of a joint means in place of a pintle joint to allow equivalent or enhanced movement between the attenuating device and boom and the front part; if needed.

Response to Arguments

6. Applicant's arguments filed 12/16/08 have been fully considered but they are not persuasive. Regarding applicants' argument that examiner previously acknowledged that Carlsson lacked the location of the extension device; as claimed. Although the earlier office action was thought to lack this feature. However, as stated in a latter office action, the examiner pointed out that upon further review of the Carlsson reference, it was clear that the reference does in fact disclose this feature as broadly claimed; as noted in the previous office action and above.

Carlsson clearly shows a device that is configured to provide a first position (figure 1) where the extension device 2 positions the attenuating part 1 in a transportation position in which the attenuating part is extended away from the front part 9 and further clearly shows in figure 8 where the device is further configured to provide a second position where the extension device positions the attenuating part in an operating position wherein the attenuating part 1 is positioned against the front part and appears to function like that of applicant. Therefore applicants' argument that the device is structurally and functionally different from applicants' invention is

not persuasive. Carlsson's device clearly shows the structural limitations of the claim as broadly recited and does not appear to be any functional difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim.

Further applicant's arguments regarding claim 7 is not fully persuasive, although the boom as originally applied against the claim is different from that of applicants' boom feature; as now understood, however the Carlsson reference; as stated above, also shows a boom means like that of applicants' claim, which functions like the claimed joint connecting the front part to a boom feature as claimed.

Conclusion

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel Yeagley whose telephone number is (571)272-6655. The examiner can normally be reached on Monday - Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lesley D. Morris can be reached on (571) - 272 - 6651. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

D.Y.

/Lesley D. Morris/
Supervisory Patent Examiner, Art Unit 3611